

**\*\*\*ATTACHMENTS\*\*\***

**CITY OF SHEBOYGAN****COMMITTEE ON LAW AND LICENSING MINUTES****OCTOBER 25, 2016**

**MEMBERS PRESENT:** Chair Alderperson Susan Holzschuh, Vice Chair Alderperson Roman Draughon, Alderperson Mark Hermann, Alderperson Rosemarie Trester

**MEMBERS EXCUSED:** Alderperson Job Hou-Seye

**STAFF/OFFICIALS PRESENT:** City Attorney Charles C. Adams, Police Chief Chris Domagalski, Sgt. Mike Stelter, City Clerk Susan Richards, Mayor Michael Vandersteen, City Administrator Darrell Hofland, Alderperson John Belanger, Director of Planning & Development Chad Pelishek, Manager of Planning & Zoning Steve Sokolowski, Kathy Hoffman

**OTHERS PRESENT:** Tyler J. Ebbers, Basudev Adhikari, Mark Kelderman, Toby Watson, Jason Keck, Shawn Hansen, Phillip Bock

**1. OPENING OF MEETING**

## 1.1 Call meeting to order

Chair Alderperson Holzschuh called the meeting to order at 2:30 p.m.

## 1.2 Pledge of Allegiance

The Pledge of Allegiance was recited.

## 1.3 Introduction of Committee members, staff and guests

## 1.4 Approval of the minutes of the October 11, 2016 meeting

Motion by Alderperson Trester, seconded by Alderperson Draughon, to approve the minutes of the previous meeting held October 11, 2016. Motion carried 4-0.

**2. ITEMS FOR DISCUSSION AND POSSIBLE ACTION**

2.1 R.O. No. 116-16-17 (9-19-16) Submitting various license applications for the period ending December 31, 2016, June 30, 2017 and June 30, 2018. Various License Applications: Taxicab Driver Lic. App. No. 1486 (Lashelle T. Tatum)

Lashelle T. Tatum did not appear, but had contacted the City Attorney's Office to indicate that she was unable to appear because she was sick. Ms. Tatum was instructed to appear at the November 15th meeting.

Motion by Alderperson Draughon, seconded by Alderperson Trester, to hold the application until the November 15th meeting and to call in Ms. Tatum by regular mail. Motion carried 4-0.

2.2 R.O. No. 130-16-17 (10-3-16) Submitting various license applications for the period ending December 31, 2016, June 30, 2017 and June 30, 2018. Various License Applications: Bev. Op. Lic. App. No. 1500 (Tyler J. Ebbers)

Tyler J. Ebbers appeared before the committee to discuss his application. The committee discussed his record

and his failure to include violations on his application.

Motion by Alderperson Draughon, seconded by Alderperson Trester, to grant the license contingent upon the application being corrected, and with a warning to include all relevant information on future applications. Motion carried 4-0.

2.3 R.O. No. 139-16-17 (10-17-16) Submitting a communication from Basudev Adhikari, Sheboygan Liquor Depot, requesting an extension for the license due to certain delays with construction issues

Basudev Adhikari appeared before the committee and explained that he is not able to open by November 2, 2016. Although most of the construction work is completed, there are a few items that still need to be completed and there is some masonry work in the front that will take another five (5) weeks to complete.

Motion by Alderperson Draughon, seconded by Alderperson Trester, to recommend that the Common Council grant a 90-day extension (until January 31, 2017) to Sheboygan Liquor Depot under the continuation of business ordinance. Motion carried 4-0.

2.4 Gen. Ord. No. 24-16-17 (10-17-16) An ordinance repealing and recreating Article IV of Chapter 30 of the Municipal Code relating to Sales of Drug Paraphernalia, and repealing and recreating Section 70-8 of the Municipal Code entitled "Adoption of State Law Regarding Controlled Substances"

ACA Adams explained to the committee that this proposed ordinance does not change anything. The ordinance simply collects and consolidates language from state statutes that already exist and have already been adopted by the City, and puts all of the language in a single location so that citizens who wish to understand what the law allows and doesn't allow only have to look in a single place. The following people spoke against the proposed ordinance: Mark Kelderman of Decriminalize Oshkosh and Toby Watson who is a landlord and owns 12 storefronts in Sheboygan.

Motion by Alderperson Trester, seconded by Alderperson Draughon, to approve the proposed ordinance and submit it to the common council with a favorable recommendation. Motion carried 3-1 (Alderperson Hermann – nay).

2.5 R.O. No. 140-16-17 (10-17-16) Submitting various license applications for the period ending December 31, 2016, June 30, 2017 and June 30, 2018

Motion by Alderperson Draughon, seconded by Alderperson Trester, to call in Fermented Malt Bev. and Class "C" Wine Lic. App. No. 3225-Saap Lai (Alexandra Hernandez, Agent, and Antonio Neuaone, Member) to discuss the application with the committee. Motion carried 4-0.

Motion by Alderperson Trester, seconded by Alderperson Draughon, to grant a license to Bev. Op. Lic. App. No. 6087 (Barbara J. Benirschke). Motion carried 4-0.

Motion by Alderperson Trester, seconded by Alderperson Draughon, to call in Bev. Op. Lic. App. No. 1525 (Shantae N. Harris) to discuss her application with the committee. Motion carried 4-0.

Motion by Alderperson Hermann, seconded by Alderperson Trester, to call in Bev. Op. Lic. App. No. 1528 (Chad R. Moan) to discuss his application with the committee. Motion carried 4-0.

Motion by Alderperson Hermann, seconded by Alderperson Draughon, to grant a license with a warning, contingent upon the application being corrected, to Bev. Op. Lic. App. No. 1550 (Brenda J. Outland). Motion carried 4-0.

Motion by Alderperson Draughon, seconded by Alderperson Trester, to grant a license with a warning,

contingent upon the application being corrected, to Bev. Op. Lic. App. No. 7214 (Daniel L. Semsch). Motion carried 4-0.

Motion by Alderperson Draughon, seconded by Alderperson Trester, to grant a license to Bev. Op. Lic. App. No. 5650 (Donna M. Soerens). Motion carried 4-0.

Motion by Alderperson Hermann, seconded by Alderperson Draughon, to grant a license with a warning, contingent upon the application being corrected, to Bev. Op. Lic. App. No. 1533 (Brenda L. Vandenberg). Motion carried 4-0.

Motion by Alderperson Draughon, seconded by Alderperson Trester, to grant the remainder of the license applications for individuals and entities listed on the above-referenced R.O. Motion carried 4-0.

## 2.6 Discussion and possible action regarding law violations that may require future action by the Committee

CA Adams and Sgt. Stelter indicated that they had no such violations to report at this time.

## 3. CLOSING OF MEETING

### 3.1 Set time, date and place of next meeting

The next committee meeting is scheduled to be held on November 15, 2016 at 2:30 p.m. in the Common Council Chambers located at City Hall, 828 Center Avenue.

### 3.2 Motion to adjourn

Motion by Alderperson Trester, seconded by Alderperson Draughon, to adjourn at 3:40 p.m. Motion carried 4-0.





R. O. No. 140 - 16 - 17. By CITY CLERK. October 17, 2016.

Submitting various license applications for the period ending December 31, 2016, June 30, 2017 and June 30, 2018.

*Law & Liu*  
\_\_\_\_\_  
City Clerk

FERMENTED MALT BEVERAGE (June 30, 2017)

<u>No.</u>	<u>Name</u>	<u>Address</u>
3225	Saap Lai	1402 S. 8 <sup>th</sup> St.

CLASS "C" WINE (June 30, 2017)

<u>No.</u>	<u>Name</u>	<u>Address</u>
3225	Saap Lai	1402 S. 8 <sup>th</sup> St.

BEVERAGE OPERATOR'S LICENSE (June 30, 2018)

<u>No.</u>	<u>Name</u>	<u>Address</u>
1542	Anderson, James C.	1014 Dillingham Ave.
6087	Benirschke, Barbara J.	910 N. 10 <sup>th</sup> St., #328
1536	Bresser, Joel M.	3142 S. 17 <sup>th</sup> St.
1525	Harris, Shantae N.	1515A Alabama Ave.
1519	Joshi, Bashudev	1418 Wisconsin Ave.
1517	Mason JR., Charles W.	1528 Main Ave.
1528	Moan, Chad R.	2607 N. 8 <sup>th</sup> St.
1550	Outland, Brenda J.	516A S. Water St.
1534	Patnode, Kasey L.	924 Ashland Ave.
1523	Presley, Wendi J.	530 N. 15 <sup>th</sup> St.
7214	Semsch, Daniel L.	924 Logan Ave.
7565	Sievers, Fred A.	4257 Honeysuckle Ct., #I203
5650	Soerens, Donna M.	1113 N. 10 <sup>th</sup> St.
1548	Sommerfeld, Adrian M.	2307 Hillshire Dr., 1D
1533	Vandenberg, Brenda L.	508 S. 13 <sup>th</sup> St.
0661	Vanic, Patrick R.	3732 N. 12 <sup>th</sup> St.

TAXICAB DRIVER'S LICENSE (December 31, 2016)

No. Name

Address

1532 Fiedler, Randy Bruce

40 Selma St., Plymouth

**IX**

6.1

R. C. No. 235- 16 - 17. By LAW AND LICENSING. November 7, 2016.

Your Committee to whom was referred Gen. Ord. No. 24-16-17 by Alderperson Belanger repealing and recreating Article IV of Chapter 30 of the Municipal Code relating to Sales of Drug Paraphernalia, and repealing and recreating Section 70-8 of the Municipal Code, entitled "Adoption of State Law Regarding Controlled Substances"; recommends that the Ordinance be passed.

reg  
Holzschuh / Draughon  
Acc Ad  
Ord pass.  
BAWTT: motion by Holzschuh / Draughon  
to refer back to Law & Licensing  
magnifying eyes - 14  
nays - Hermann - 1

Susan J Holzschuh  
Dawn Marie Kester

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Committee

I HEREBY CERTIFY that the foregoing Committee Report was duly accepted and adopted by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_, \_\_\_\_\_, City Clerk

Approved \_\_\_\_\_ 20\_\_\_\_, \_\_\_\_\_, Mayor

~~X~~

Other Matters

7.1

Gen. Ord. No. 24 - 16 - 17. By Alderperson Belanger. October 17, 2016.

AN ORDINANCE repealing and recreating Article IV of Chapter 30 of the Municipal Code relating to Sales of Drug Paraphernalia, and repealing and recreating Section 70-8 of the Municipal Code, entitled "Adoption of State Law Regarding Controlled Substances."

THE COMMON COUNCIL OF THE CITY OF SHEBOYGAN DO ORDAIN AS FOLLOWS:

Section 1. Article IV of Chapter 30 of the Municipal Code is hereby repealed and recreated to read as follows:

"ARTICLE IV. - SALES OF DRUG PARAPHERNALIA

Sec. 30-161. Sales of Drug Paraphernalia Prohibited.

(a) *Manufacture, sale or delivery of drug paraphernalia.* No person may sell, deliver, possess with intent to deliver or manufacture with intent to deliver drug paraphernalia, as defined in §70-8(a) of this Code, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this chapter.

(b) *Advertisement of drug paraphernalia.* No person may place in any newspaper, magazine, internet advertisement, handbill or other publication or upon any outdoor billboard or sign any advertisement knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

(c) *Exemption.* This section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with that permitted under the provisions of Wis. Stat. Ch. 961. This section does not prohibit the possession, manufacture or use of hypodermics in accordance with that permitted under Wis. Stat. Ch. 961.

(d) *Penalty.* Any person violating any provision of this article shall be fined not less than \$250.00 nor more than \$1,000.00 for the first offense and succeeding offenses during the calendar year. Each day that such violation continues shall be deemed a separate and distinct offense and, in default of payment thereof, imprisonment in the county jail for a period not to exceed 90 days.

Sec. 30-162. Sale or gift to minors of paraphernalia for use with illegal drugs or controlled substances.

*Laura P. approve*

*Delivery of drug paraphernalia to a minor.* Any adult, as defined by Wis. Stat. §938.02(1), who violates any provision of this Article by delivering drug paraphernalia, or who sells, gives or delivers any item, effect, accessory or thing which is designed or marketed for use with illegal cannabis, drugs, controlled substances, or controlled substance analogs as defined by the state statutes to a person 17 years of age or under shall be subject to the maximum penalty authorized hereunder."

Section 2. Section 70-8 of the Municipal Code, entitled "Adoption of State Law Regarding Controlled Substances," is hereby repealed and recreated to read as follows:

"Sec. 70-8. Possession of Drug Paraphernalia and Adoption of State Law Regarding Controlled Substances.

(a) *Definitions.* In this section, "drug paraphernalia" means all equipment, products and materials of any kind which are used, designed for use, or primarily intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, selling, distributing, delivering, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance or controlled substance analog, as defined in Wis. Stat. Ch. 961. It includes but is not limited to:

- (1) Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
- (2) Kits used, intended for use or designed for use in manufacturing, selling, distributing, delivering, compounding, converting, producing, processing or preparing controlled substances;
- (3) Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance;
- (4) Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;
- (5) Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances;
- (6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances;

- (7) Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana;
- (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in packaging small quantities of controlled substances;
- (9) Capsules, balloons, envelopes or other containers used, intended for use or designed for use in packaging small quantities of controlled substances;
- (10) Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances;
- (11) Hypodermic syringes, needles or other objects used, intended for use or designed for use in parenterally injecting controlled substances into the human body;
- (12) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, including but not limited to:
  - a. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, with or without screens, permanent screens, hashish heads or punctured metal bowls;
  - b. Water pipes;
  - c. Carburetion tubes and devices;
  - d. Smoking and carburetion masks;
  - e. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
  - f. Miniature cocaine spoons and cocaine vials;
  - g. Chamber pipes;
  - h. Carburetor pipes;
  - i. Electric pipes;
  - j. Air-driven pipes;
  - k. Chilams;
  - l. Bonges;
  - m. Ice pipes or chillers.

(b) *Determination of drug paraphernalia.* In determining whether an object is drug paraphernalia, the following shall be considered, without limitation of other considerations a court shall deem relevant:

- (1) Statements by an owner or by anyone in control of the object concerning its use;
- (2) Prior convictions, if any, of an owner or of anyone in control of the object under any village, municipal, state or federal law relating to any controlled substances;
- (3) The proximity of the object in time and space to a direct violation of this chapter;

- (4) The proximity of the object to controlled substances or controlled substance analogs;
- (5) The existence of any residue of controlled substances or controlled substance analogs on the object;
- (6) Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object to deliver it to persons whom the person knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter. The innocence of the owner or of anyone in control of the object as to a direct violation of this chapter shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia;
- (7) Oral or written instructions provided with the object concerning its use;
- (8) Descriptive materials accompanying the object which explain or depict its use;
- (9) National and local advertising concerning its use;
- (10) The manner in which the object is displayed for sale;
- (11) Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (12) Direct or circumstantial evidence of the ratio of sales of the object to the total sale of the business enterprise;
- (13) The existence and scope of legitimate uses for the object in the community;
- (14) Expert testimony concerning its use.

(c) *Prohibited Activities.*

- (1) *Possession of drug paraphernalia.* No person may use, or possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this chapter. Possession of drug paraphernalia shall give rise to a rebuttable presumption of prohibited use.
- (2) *Manufacture, sale or delivery of drug paraphernalia.* No person may sell, deliver, possess with intent to deliver or manufacture with intent to deliver drug paraphernalia knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this chapter.
- (3) *Delivery of drug paraphernalia to a minor.* Any adult, as defined by Wis. Stat. §938.02(1), who violates subsection (c)(1) above

by delivering drug paraphernalia to a person 17 years of age or under shall be subject to the maximum penalty authorized hereunder.

- (4) *Advertisement of drug paraphernalia.* No person may place in any newspaper, magazine, internet advertisement, handbill or other publication or upon any outdoor billboard or sign any advertisement knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.
- (d) *Exemption.* This section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with that permitted under the provisions of Wis. Stat. Ch. 961. This section does not prohibit the possession, manufacture or use of hypodermics in accordance with that permitted under Wis. Stat. Ch. 961.
- (e) *Penalty.* Any person violating any provision of this article shall be fined not less than \$250.00 nor more than \$1,000.00 for the first offense and succeeding offenses during the calendar year. Each day that such violation continues shall be deemed a separate and distinct offense and, in default of payment thereof, imprisonment in the county jail for a period not to exceed 90 days.
- (f) *Effect of changes to State Statutes.* Pursuant to §961.577, Wis. Stats., any amendments that shall be made from time to time after the date of this ordinance to the following statutes regarding possession of drug paraphernalia, exclusive of penalties, are hereby adopted by reference and made offenses punishable as a violation of this Code: §961.573(1) and (2), §961.574(1) and (2), and §961.575(1) and (2), Wis. Stats."

Section 3. All ordinances or parts thereof in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, and this ordinance shall be in effect from and after its passage and publication.

John B. [Signature]

I HEREBY CERTIFY that the foregoing Ordinance was duly passed by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, City Clerk

Approved \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, Mayor

II

Other Matters

9.7

R. O. No. 156 - 16 - 17. By CITY CLERK. November 7, 2016.

Submitting various license applications for the period ending December 31, 2016, December 31, 2017, June 30, 2017 and June 30, 2018.

*Law & Lic.*

\_\_\_\_\_  
City Clerk

CHANGE OF AGENT

Roger Ugarte is replacing Anthony Fechter as agent for Shevegas Nightclub located at 1133 Michigan Ave. effective immediately.

"CLASS B" LIQUOR LICENSE (June 30, 2017)

<u>No.</u>	<u>Name</u>	<u>Address</u>
3226	Club Michigan II	908 Michigan Ave.

MESSAGE ESTABLISHMENT LICENSE (December 31, 2017)

<u>No.</u>	<u>Name</u>	<u>Address</u>
1685	Bonelli, Robyn	1812 Superior Ave.
2727	Bonjour Massage	1327 N. 8 <sup>th</sup> St.
2804	Reflections Spa	

BEVERAGE OPERATOR'S LICENSE (June 30, 2018)

<u>No.</u>	<u>Name</u>	<u>Address</u>
1552	Alvarez, Fernando A.	1405 N. 6 <sup>th</sup> St.
6398	Beringer, Michael RA	4607 Mueller Rd.
1241	Bowe, Keith L.	9723 Glenflora Rd., Kiel
1561	Cortez, Amber E.	1511 Ashland Ave.
9450	Dohse, Kelly A.	1519 S. 21 <sup>st</sup> St.
9868	Eisold, Derric D.	1602 N. 28 <sup>th</sup> St.
1230	Fritsch, Laura J.	611 Bell Ave.
1559	Gabrishg, Patricia M.	903 Paige Ct.
1053	Gahagan, Dacoda C.	1607 S. 26 <sup>th</sup> St.
1281	Henry, Jacob L.	2220 N. 36 <sup>th</sup> St.
1107	Key, Matthew L.	3962 Greenwood Ct.
0525	Kratz, Robert D.	1702 Cedar Grove Dr., #2A, Manitowoc

1551 Molitor, Justin J.	2001 N. 13 <sup>th</sup> St.
1789 Nielson, Lori M.	1833 N. 24 <sup>th</sup> St.
1555 Palmer, Darrick V.	1641 N. 11 <sup>th</sup> St.
1162 Reinemann, Kelly J.	3002 S. 20 <sup>th</sup> St.
9421 Rowe, Cole M.	1643A N. 3 <sup>rd</sup> St.
1297 Schmidt, Miranda R.	205 Rangeline Rd., #1
1061 Seymour, Paul E.	634 Fairview Dr., Plymouth

TAXICAB DRIVER'S LICENSE (NEW) (December 31, 2017)

<u>No.</u>	<u>Name</u>	<u>Address</u>
1011	Cevaal, Jacob Adam	2101 N. 9 <sup>th</sup> St.

TAXICAB DRIVER'S LICENSE (RENEW) (December 31, 2017)

<u>No.</u>	<u>Name</u>	<u>Address</u>
6884	Adomavich, David H.	1107 Erie Ave.
1252	Beyer, Daniel Peter	1735 N. 25 <sup>th</sup> St.
1133	Butler, Eva M.	1921 Garfield Ave.
0093	Butler Jr., James D.	1630 S. 8 <sup>th</sup> St., #A
9714	Gering, Kevin W.	2406 Main Ave.
5170	Gilbertson, Stephen J.	1216 N. 29 <sup>th</sup> St.
8112	Gohr, Trevor M.	4213 Autumn Ct.
4978	Hunt, Denise L.	2213 N. 20 <sup>th</sup> St.
0690	Kohlmann Jr., Francis W.	6 Tacoma Trl.
0256	Krueger, Mark A.	13 S. Hiawatha Circle
0836	Rivera, Amalio Calderon	1428 S. 8 <sup>th</sup> St.
6948	Schneider, Gordon J.	2223 S. 7 <sup>th</sup> St.
1149	Stewart, Harvey L.	1416 Illinois Ave.